

84728

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge
Case No. 2012-CP-38-0845

Ralph C. Williams, Sr., and Linda Williams, Appellants,

v.

Patricia A. Johnson, Josette Peppers
and UniHealth Post-Acute Care — Orangeburg, LLC Respondents.

RECEIVED JASON E. BRING
ARNALL GOLDEN GREGORY LLP
171 17th Street, N.W., Suite 2100
Atlanta, Georgia 30363
Ph: (404) 873-8162
Fax: (404) 873-8163
jason.bring@agg.com
Attorney for Respondents

OCT 03 2017
SC Court of Appeals

RESPONDENTS' MOTION TO DISMISS APPEAL

Pursuant to Rule 240(a), SCACR and Rule 260(a), SCACR, Respondents submit this Motion to Dismiss Appellants' Appeal.

SUMMARY OF THE FACTS

Appellants moved for four extensions of time to file their appeal with this Court. Despite having 153 days to submit their initial brief, Appellants have failed to meet this gracious deadline. The Court should therefore dismiss this appeal.

Appellants' original deadline to submit their initial brief was May 18, 2017. The day before the expiration, Appellants sought their first extension, which this Court granted and extended the deadline to June 19, 2017. Then, on the already-extended due date of their initial brief, Appellants again sought an extension without explanation. The Court granted that

extension to July 19, 2017, but instructed Appellants that “[n]o further extensions will be granted absent extraordinary circumstances.” Thereafter, Appellants sought their third extension due to a heavy caseload and unforeseen family illness. The Court graciously granted that Motion, issuing the same order requiring “extraordinary circumstances” to permit any additional extensions of time. Finally, on the date of the expiration of the thrice-extended deadline to submit their initial brief, Appellants submitted their fourth Motion for Extension of Time, this time citing the flu, a burdensome caseload and unexpected family illness. The Court again granted the extension, pushing the deadline until September 18, 2017. But Appellants failed to meet this much-extended deadline, and have yet to submit their initial brief to this Court. Accordingly, Respondent respectfully requests that the Court dismiss this appeal.

ARGUMENT

This Court should dismiss Appellants’ appeal due to their lack of timely pursuit. Since their inception of this appeal, Appellants delayed their pursuit on four occasions. And despite having had over 150 days to prepare their argument on appeal, they failed to do so.

Under Rule 208(a)(1), SCACR, the appellant must file and serve its initial brief within thirty (30) days after serving his/her notice of appeal. But “[w]herever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Rule 260, SCACR; see also Martin v. Halverson, 2008-UP-152, 2008 WL 9837328, at *3 (S.C. Ct. App. Mar. 10, 2008) (declining to address issue on appeal as the appellant did not file a brief on the issue, and thus the matter was not properly before the Court of Appeals).

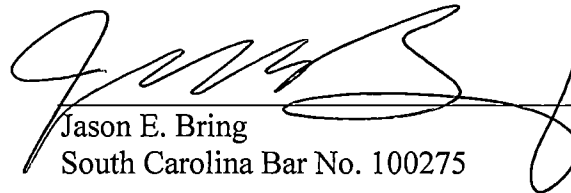
With Appellants’ having failed to file their brief in a timely manner, Respondents request that this Court dismiss this appeal. Having already extended the deadline on four prior occasions,

the Court ordered that “the time for serving and filing the appellants’ initial brief and designation of matter is hereby extended until September 18, 2017.” See Order dated August 24, 2017. But despite this clear Order, Appellants have yet to submit their initial brief, now two weeks after the prescribed deadline. Accordingly, Respondents respectfully request that this Court dismiss this appeal due to Appellants’ lack of timely pursuit.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that this Court dismiss this appeal. Alternatively, Respondents request that the clerk issue an order of dismissal.

ARNALL GOLDEN GREGORY LLP
171 17th Street, N.W., Suite 2100
Atlanta, Georgia 30363
Ph: (404) 873-8162
Fax: (404) 873-8163
jason.bring@agg.com


Jason E. Bring
South Carolina Bar No. 100275

Attorney for Respondents

October 2, 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge
Case No. 2012-CP-38-0845

RECEIVED
OCT 03 2017
SC Court of Appeals

Ralph C. Williams, Sr., and Linda Williams, Appellants,

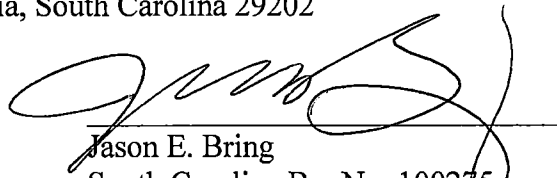
v.

Patricia A. Johnson, Josette Peppers
and UniHealth Post-Acute Care — Orangeburg, LLC Respondents.

PROOF OF SERVICE

The undersigned counsel hereby certifies that on the date indicated below he served counsel for the Appellants with a copy of the *Respondents' Motion to Dismiss Appeal* by mailing copies of the same by United States Mail with first class postage prepaid to the following address:

John S. Nichols
BLUESTEIN NICHOLS THOMPSON & DELGADO
P.O. Box 7965
Columbia, South Carolina 29202



Jason E. Bring
South Carolina Bar No. 100275
ARNALL GOLDEN GREGORY LLP
171 17th Street, N.W., Suite 2100
Atlanta, Georgia 30363
Ph: (404) 873-8162
Fax: (404) 873-8163
jason.bring@agg.com

Attorney for Respondents

**Arnall
Golden
Gregory LLP**

Atlanta Office
171 17th Street NW, Suite 2100
Atlanta, GA 30363-1031
Direct phone: 404.870.5708
E-mail: sonya.sowell@agg.com

October 2, 2017

VIA UPS OVERNIGHT

Ms. Jenny Kitchings, Clerk of Appellate Court
South Carolina Court of Appeals
1200 Senate Street
Columbia, SC 29201

RECEIVED
OCT 03 2017
SC Court of Appeals

Re: Ralph C. Williams, et al. v. Patricia A. Johnson, et al.
Client-Matter No. 25875.5

Dear Ms. Kitchings:

Enclosed for filing with the Court please find an original and six (6) copies of Respondents' Motion to Dismiss Appeal. We would appreciate receiving a file-stamped copy of same, and have enclosed an additional copy and self-addressed, stamped envelope for your convenience in forwarding the file-stamped copy to us. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

ARNALL GOLDEN GREGORY LLP



Sonya M. Sowell
Paralegal

/sms
Enclosures
cc: John S. Nichols, Esq., w/enclosure

11406244v1

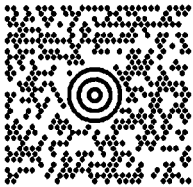
SONYA SOWELL
4048738500
ARNALL GOLDEN GREGORY LLP
171 17TH STREET NW
ATLANTA GA 30363

0.0 LBS LTR

1 OF 1

SHIP TO:

JENNY KITCHINGS
8037341890
SOUTH CAROLINA COURT OF APPEALS
1200 SENATE STREET
COLUMBIA SC 29201-3723



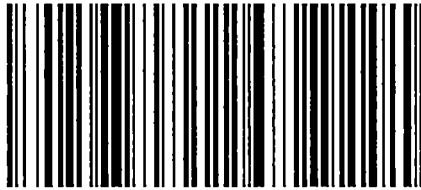
SC 292 9-01



UPS NEXT DAY AIR

TRACKING #: 1Z 393 931 01 9235 5313

1



BILLING: P/P

Reference No.1: 25875.5.2503

Reference No.2: South Carolina Court of Appeals/Kit
XOL 17.09.06 NV45 90.0A 07/2017



RECEIVED

OCT 03 2017

SC Court of Appeals